



Waukesha County
Criminal Justice Collaborating Council
Evidence-Based Decision Making Policy Team
Tuesday, August 4, 2015

Team Members Present:

Hon. Jennifer Dorow, Presiding Judge & Policy Team Chair
County Board Chair Paul Decker
State Public Defender Regional Attorney Manager Sam Benedict
DOC Community Corrections Field Supervisor Marla Bell
Victim Witness Coordinator Jen Dunn
WCS Administrator Sara Carpenter
Menomonee Falls Police Chief Anna Ruzinski
Town of Brookfield Municipal Judge JoAnn Eiring

CJCC Coordinator Rebecca Luczaj
District Attorney Sue Opper
HHS Director Antwayne Robertson
Clerk of Circuit Court Kathy Madden
Sheriff Eric Severson
Captain Dan Baumann
DOC Regional Chief Sally Tess

Team Members Absent:

County Executive Paul Farrow

District Court Administrator Michael Neimon

Others Present:

State Special Projects Coordinator Tommy Gubbin
Programs & Projects Analyst Windy Jicha

NIC Consultant Mimi Carter

Approve Minutes of April 14 and May 19, 2015

Motion: Ruzinski moved, Decker second, to approve the minutes of April 14 and May 19, 2015. Motion carried unanimously.

Meeting Goals

Carter reviewed the meeting goals:

- Give feedback on the June kick-off workshop
- Review team charter
- Review completed system mapping
- Continue system mapping
- Determine next steps

Review/Edit System Mapping Completed at June Kick-Off

The group reviewed a handout featuring the mapping completed to date and was asked to hand in any corrections/suggestions by the end of the meeting. Benedict remarked that the group needs better understanding of what happens when someone goes to jail, weekend judicial visits to the jail, pretrial screening and the public defenders' office functions.

System Mapping

Jail/Booking

- Biographical information collected
- Warrant information entered
- Property searched and inventoried
- Medical and mental state assessed
- Medication reviewed and inventoried
- Temporary inmate classification given
- Posting bail discussed
- Preliminary holding determined

**After lockup, inmates go through an assessment which includes a medical review. Results of the assessment may indicate that inmates need to be medically cleared, put into emergency detention or admitted into a hospital. For the purpose of this exercise, the group mapped out the path of a mostly healthy person entering the jail. The other options will be mapped at a later date.*

Pretrial Decision Point

Risk is defined as risk for pretrial failure.

- Identify people who are low risk as early as possible
- Detain high risk
- Release low risk
- Identify services needed for stability
- Utilize resources other than the jail

- Waukesha County mostly detains for high risk felonies, state crimes, multiple offenses, etc.
- Little is done for defendants unless they are taken into custody.
- There is no countywide assessment tool for law enforcement.
- Cooperation/noncooperation with law enforcement is a strong influence in officers' decision making.
- It is important to link people who have encounters with law enforcement to services as soon as possible.
- The county needs more early intervention opportunities, diversion and deferred prosecution programs and processes, diversion courts, etc.
- Low risk people with stability issues could be referred to services before their cases are referred to the DAs office.
- Could defendants take steps toward rehabilitation that could be used in the DAs decision-making processes?
- The 180 Diversion program is heavily underutilized because few qualify and it can be cost prohibitive.

Judicial Determination of Probable Cause (Riverside)

- Used for those people who are unable to post predetermined bonds. Cases are coded for judicial review by the courts.
- The judge reviews the probable cause statement written by the arresting officer. Limited information regarding the nature of the offense is available. Very subjective case review and bond setting in some instances. No screening tools are used.
- Current practice: no one is released from jail as a result of this review.

- The group agreed initial appearance processes needed to be further reviewed. Statistical pretrial data needs to be attached to the mapping to quantify findings: How many inmates are held in jail pretrial and for how long? How much time and resources are spent on bail review for misdemeanors and/or low bond cases? Why don't people post low bails? How much is collected annually in forfeited bonds?
- Jail classification is done after the first court appearance. Those released before their first court appearance will not go through classification. An expanded discussion of jail classification will occur at a future meeting.

Pretrial Screening Tool

- The pretrial screening tool is used to help determine whether defendants are likely to attend future court events, to assess likelihood of pretrial misconduct, and to protect community safety.
- WCS uses a modified form of the Virginia pretrial screening tool to identify pretrial risk and make recommendations.
- WCS has a small window of opportunity to perform pretrial screening Sunday through Friday and produce reports which include data from the last five years of CCAP entries.
- All parties receive copies of the report by 10 a.m.
- 10 to 15% of defendants refuse to participate in the pretrial screening process.
- The DAs office uses the pretrial screening report but has had problems getting the reports in a timely fashion.
- WCS in Waukesha County does not have access to NCIC data but the DAs office does.

- There are concerns about the validity of the report's information because much of it is self-report with a low rate of secondary source verification.
- Investigate the possibility of incorporating/consolidating WCS and P&P screening tools and date.
- Incorporating NCIC data into the pretrial screening reports would alert the courts of out-of-state convictions and possibly explain crime-free periods when defendants are in jail.
- WCS should consider reviewing more than five years in CCAP for defendants' criminal record.
- The number of detainees could increase if WCS considers all CCAP data. A random sample of defendants' entire CCAP history will be examined to see how the data increases the risk scores.
- WCS will evaluate how closely release decisions correlate with pretrial screening risk scores.
- More education on the value of the screening tool is needed.

Screen for Public Defender Eligibility

- The Office of the State Public Defender (SPD) mobilizes immediately to screen for eligibility and as necessary when defendants do not have a lawyer.
- 60-70% of defendants are eligible for SPD services in Waukesha County.
- 70% of qualified defendants are assigned to a staff attorney, the remaining 30% are assigned a private bar attorney.
- SPD reassesses eligibility at defendants' requests or if the office feels defendants are in need of help.
- SPD uses the pretrial assessment reports prepared by WCS (when available) while meeting with defendants.
- When a public defender learns that a defendant has refused to go through the pretrial assessment with WCS, there is no means for them to reconsider and be screened at a later time.
- Those not eligible for SPD services may hire a private attorney, ask the court to appoint a private attorney under the "Dean Gap" or represent themselves.

Victim Witness

- The victim witness process begins when cases are referred to the DAs office but many more cases (citations, warnings, no one apprehended) qualify for services but are not connected for help.
- Trauma teams/crisis response teams can be sent to crime scenes.
- Victim services could be better promoted to increase use.

Steps

- Intake clerk checks jail roster for new intakes.
- New lockups will make an initial appearance at court at 1:15 p.m. (Monday – Friday).
- Case assigned in DAs office who reviews police report.
- Charging decisions are made: defendant charged or held until next day, case sent back for more information, DA to summons, nolle prosequi, referred to 180 Diversion Program, etc.
- Confidential informants are not charged.

Initial Appearance

- Complaint filed, bail and conditions determined.
- Bail could be reviewed by written application made by defendant, counsel or state.
- When complaint is filed, the DAs office sends out a pretrial offer based on the state's recommended disposition of the case and pretrial reports (Charges are the biggest factor but other things are considered such as type and number of charges and crimes).
- Lock up calendar occurs Monday through Friday at 1:15 p.m. Repeat drunk drivers are scheduled for Tuesdays.
- As soon as a case hits CCAP, a computer program randomly selects the judge who will try the case.
- Frequent conversations between DAs office and defendants.
- Cases are rarely resolved at the initial appearance.
- Bail options with or without conditions include ROR, signature, cash or property bonds.

- Per statute, the SPD is not entitled discovery information prior to arraignment. The DAs office felt it had enough information about cases at this time and if not, would request more information. The SPDs office did not feel they came close to having enough case information.
- Some reasons why cases are not resolved at this time: no pretrial offer given, not all discovery has been shared, defendant requires treatment, case requires a jury trial, lack of consensus for resolution, some attorneys feel the need for a jury trial, etc.
- Case scheduled for trial. Large number of people sentenced on the same day as the plea is entered and most cases are resolved before the jury trial.
- Forfeited cash bonds provide revenue for the courts. In 2014, forfeited signature bonds totaled \$140K and cash bail \$64K. No one was aware of where these funds went in the budget.

Presentencing Investigation Assessment/Report

- P&P generally has 30-60 days to complete investigation and produce report.
- 45-60 days are needed to verify information and produce a quality report.
- Report looks at whether a defendant should do jail time.
- Report includes P&P sentencing recommendations and durations.
- Sometimes jail conduct is included in the assessment but agents do not necessarily have the information.
- Report released to court, DA and defense.
- Reports also used by jail and prison staff.

- Is it a better use of resources for the jail to produce jail conduct reports on all inmates or trust that jail staff will report issues as they occur?
- Unknown if the PSI report is evidenced-based.

Sentencing Options	Conditions
➤ Fines	➤ Confinement: jail or Huber
➤ Jail – up to one year per count	➤ Restitution
➤ Probation	➤ Assessments
➤ Prison (may be bifurcated)	➤ Therapy
	➤ Absolute sobriety
	➤ Prohibitions on geography – GPS
	➤ No contact order
	➤ Community Service
	➤ Day Report Center

- A larger number of conditions dilute the focus of the most important conditions.
- Set conditions to reduce risk, maintain public safety, address victims' needs, restitution, etc.
- Would jail reports help judges make sentencing decisions? Is there a connection between bad behavior in lockup versus success in Huber?

Identified Opportunities

- Dorow is very concerned with case management and flow especially considering approximately 90% of cases are scheduled for trial. Opportunity to address case flow processes as 80% of cases should be resolved in 180 days. Carter suggested using NCSC technical support to investigate.
- Investigate if it would be beneficial for judges to have information about detainees jail conduct.
- Determine if there a link between in-custody behavior and sentencing options.
- Review presentence investigation report.
- Determine release options at point of Riverside hearing.
- Determine what outcome data is available for various release options.
- Promote the victim witness program's ability to offer support to victims particularly in cases where the perpetrator is not apprehended.
- Consider reevaluating the pretrial risk tool.
- Consider changing WCS' procedure and reviewing all CCAP history for pretrial screening report rather than just the last five years.
- Determine if WCS (Waukesha) should have access to NCIC for pretrial reporting. Determine how many out-of-state convictions occur and are being missed.
- Investigate early intervention opportunities such as diversion (pre-charge) and deferred prosecution (post-charge, pre-conviction).
- Establish process to allow defendants a second opportunity to go through WCS pretrial screening after they have refused to participate the first time.
- Determine the value of the pretrial risk assessment tool.
- Determine value of pretrial risk assessment tool if information is not verified.
- Determine how many people are in jail awaiting case resolution.

Next Steps and Agenda items for 9/29 Policy Team Meeting

- Circulate today's mapping and narrative before the next meeting.
- Benedict is unable to attend the 9/29 meeting but will send a representative from his office.

- Discuss and map the following:
 - ✓ Pretrial monitoring
 - ✓ Post sentencing
 - ✓ Misdemeanors including disposition options
 - ✓ Specialty courts
 - ✓ Mental health and competencies
 - ✓ Municipal and appellate court activities
 - ✓ Law enforcement decision point
- Discuss court response to pretrial noncompliance processes
- Discuss expanded use of CCAP for pretrial reports
- Discuss extent to which commissioners are following pretrial risk tool recommendations
- Discuss extent of override utilization
- Discuss consolidating risk assessment tools

The meeting adjourned at 2:44 p.m.